

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

MERLIN HILL,

Plaintiff,

Case No. 13-cv-13097

v.

Honorable Thomas L. Ludington  
Magistrate Judge Patricia T. Morris

CAROL WALKER and FERRY WALKER,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, AND DISMISSING  
PLAINTIFF'S COMPLAINT**

On July 9, 2013, Plaintiff Merlin Hill filed a pro se Complaint alleging Defendants Carol and Ferry Walker, two of his relations, converted or destroyed his property. ECF No. 1.<sup>1</sup> Hill filed an amended complaint on June 23, 2014. ECF No. 26. On February 9, 2015, Defendants filed an Amended Motion for Summary Judgment. ECF No. 53. In the motion they argue that Hill's case should be dismissed because one of the Defendants, Carol Walker, possessed a valid power of attorney for Hill that allowed her to "control, use, sell or otherwise dispose of his personal property as she saw fit." Defs.' Mot. Summ. J. 16, ECF No. 53. Defendants also argue that a number of the actions that Hill alleges they took against his property were actually done by non-parties to the lawsuit. *Id.* at 17. On February 5, 2014, all pretrial matters were referred to Magistrate Judge Charles E. Binder. ECF No. 8. On May 5, 2014, the case was reassigned from Judge Binder to Magistrate Judge Patricia T. Morris. *See* Text-only Order of May 5, 2014.

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<sup>1</sup> The case was entered on this Court's docket on July 18, 2013, after it was transferred from the Southern District of Mississippi.

On July 31, 2015, Judge Morris issued a comprehensive report recommending that Defendants' motion be granted and Plaintiff's Complaint be dismissed. Rep. & Rec. 1, ECF No. 72. Judge Morris concluded that "Plaintiff has not raised a material issue of fact" because "the evidence shows that Defendant Carol Walker acted pursuant to a valid power of attorney, and Defendant Ferry Walker assisted her." *Id.* at 36. Thus, "[b]ecause the power of attorney authorized her actions, it precludes Plaintiff's conversion claim." *Id.* Judge Morris also went on to address Hill's contentions concerning real property, which, she observed, cannot be encompassed by his conversion claim. *Id.* at 37. Nevertheless, Judge Morris found that "under any theory, there would not be a material dispute concerning Plaintiff's central contention that Defendants forced his signature." *Id.* This is so because Hill's self-serving statements and unattested affidavits do not overcome the presumption of authenticity that attaches to a notarized deed with a certificate of acknowledgement. *Id.* at 40.

Although the Magistrate Judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 72, is **ADOPTED**.

It is further **ORDERED** that Defendants Carol and Ferry Walker's Amended Motion for Summary Judgment, ECF No. 53, is **GRANTED**.

It is further **ORDERED** that Plaintiff's Complaint, ECF Nos. 1 & 26, is **DISMISSED** with prejudice.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: August 31, 2015

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 31, 2015.

s/Karri Sandusky  
Karri Sandusky, Acting Case Manager